

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION**

ALLIANCE FOR HIPPOCRATIC MEDICINE,
on behalf of itself, its member organizations,
their members, and these members' patients et.
al.,

Plaintiffs,

v.

U.S. FOOD AND DRUG ADMINISTRATION,
et al.,

Defendants.

Civil Action No. 2:22-cv-00223-Z

**UNOPPOSED MOTION OF AMERICAN COLLEGE OF OBSTETRICIANS AND
GYNECOLOGISTS, AMERICAN MEDICAL ASSOCIATION, SOCIETY FOR
MATERNAL-FETAL MEDICINE, AMERICAN ACADEMY OF FAMILY
PHYSICIANS, AMERICAN GYNECOLOGICAL & OBSTETRICAL SOCIETY,
AMERICAN SOCIETY FOR REPRODUCTIVE MEDICINE, COUNCIL OF
UNIVERSITY CHAIRS OF OBSTETRICS & GYNECOLOGY, NORTH AMERICAN
SOCIETY FOR PEDIATRIC AND ADOLESCENT GYNECOLOGY, NURSE
PRACTITIONERS IN WOMEN'S HEALTH, SOCIETY OF FAMILY PLANNING,
SOCIETY OF GYNECOLOGIC ONCOLOGY, AND SOCIETY OF OB/GYN
HOSPITALISTS FOR LEAVE TO FILE AS *AMICI CURIAE* IN OPPOSITION TO
PLAINTIFFS' MOTION FOR A PRELIMINARY INJUNCTION**

Pursuant to Local Civil Rule 7.2(b), proposed *amici* move for leave to file the attached amicus brief in opposition to Plaintiffs' motion for a preliminary injunction. Counsel for Plaintiffs and Defendants have consented to *amici*'s motion.

Amici are leading professional organizations of physicians and public health experts, including the leading professional societies of physicians and obstetricians-gynecologists. Specifically, *amici* include:

American College of Obstetricians and Gynecologists (ACOG): Representing more than 90% of board-certified OB/GYNs in the United States, ACOG is the nation's premier professional membership organization for obstetrician-gynecologists dedicated to access to high-quality, safe, and equitable obstetric and gynecologic care. ACOG maintains the highest standards of clinical practice and continuing education of its members, promotes patient education, and increases awareness among its members and the public of the changing issues facing women's health care. ACOG is committed to ensuring access for all people to the full spectrum of evidence-based quality reproductive health care, including abortion care, and is a leader in the effort to confront the maternal mortality crisis in the United States. ACOG opposes medically unnecessary laws or restrictions that serve to delay or prevent care and the criminalization of evidence-based medicine. ACOG has previously appeared as *amicus curiae* in various courts throughout the country, and ACOG's briefs and guidelines have been cited by numerous courts as the authoritative voice of science and medicine relating to obstetric and gynecologic health care.

American Medical Association (AMA): The AMA is the largest professional association of physicians, residents, and medical students in the United States. Additionally, through state and specialty medical societies and other physician groups seated in its House of Delegates, substantially all physicians, residents, and medical students in the United States are represented in

the AMA's policy-making process. The AMA was founded in 1847 to promote the art and science of medicine and the betterment of public health, and these remain its core purposes. AMA members practice in every medical specialty and in every state. The AMA joins this brief on its own behalf and as a representative of the Litigation Center of the American Medical Association and the State Medical Societies. The Litigation Center is a coalition among the AMA and the medical societies of each state and the District of Columbia. Its purpose is to represent the viewpoint of organized medicine in the courts.

Society for Maternal-Fetal Medicine (SMFM): Founded in 1977, SMFM is the medical professional society for maternal-fetal medicine subspecialists, who are obstetricians with additional training in high-risk pregnancies. SMFM represents more than 5,500 members who care for high-risk pregnant people and provides education, promotes research, and engages in advocacy to advance optimal and equitable perinatal outcomes for all people who desire and experience pregnancy. SMFM and its members are dedicated to ensuring that all medically appropriate treatment options are available for individuals experiencing a high-risk pregnancy.

American Academy of Family Physicians (AAFP): Founded in 1947, the American Academy of Family Physicians is one of the largest national medical organizations, representing 127,600 family physicians and medical students nationwide. AAFP seeks to improve the health of the public and by supporting its members in providing continuous comprehensive health care to all.

American Gynecological & Obstetrical Society (AGOS): The American Gynecological & Obstetrical Society advances the health of women by providing dedicated leadership and promoting excellence in research, education and medical practice. The AGOS is an organization

composed of individuals attaining national prominence in scholarship in the discipline of Obstetrics, Gynecology and Women's Health.

American Society for Reproductive Medicine (ASRM): The American Society for Reproductive Medicine is dedicated to the advancement of the science and practice of reproductive medicine. Its members include approximately 8,000 professionals.

Council of University Chairs of Obstetrics and Gynecology (CUCOG): The Council of University Chairs of Obstetrics and Gynecology was established for the charitable and educational purposes of promoting excellence in medical education in the fields of Obstetrics and Gynecology. Today, the organization promotes and supports leadership development of current and future chairs, and encourages excellence in medical student, resident, and fellowship training; clinical practice; research; and advocacy in women's health. CUCOG provides a forum for chairpersons to address issues relevant to academic obstetrics and gynecology, and provides opportunities to share ideas and network with colleagues.

North American Society for Pediatric and Adolescent Gynecology (NASPAG): The mission of the North American Society for Pediatric and Adolescent Gynecology is to provide multidisciplinary leadership in education, research and gynecologic care to improve the reproductive health of youth. NASPAG pursues scientific and educational goals including serving and being recognized as the leader in pediatric and adolescent gynecology education, research and clinical care, conducting and encouraging multidisciplinary and inter-professional programs of medical education and research in the field, and advocating for the reproductive well-being of children and adolescents and the provision of unrestricted, unbiased and evidence-based practices.

Nurse Practitioners in Women's Health (NPWH): NPWH is the professional community for women's health nurse practitioners and other advanced practice registered nurses

who provide women's and gender-related healthcare. NPWH represents 12,500 members across the United States. Its mission includes protecting and promoting a woman and all individuals' rights to make their own choices regarding their health and well-being within the context of their lived experience and their personal, religious, cultural, and family beliefs.

Society of Family Planning (SFP): The Society of Family Planning vision is just and equitable abortion and contraception informed by science. The Society represents more than 1,400 clinicians, scholars, and partners united by a shared interest in advancing the science and clinical care of family planning.

Society of Gynecologic Oncology (SGO): The Society of Gynecologic Oncology contributes to the advancement of women's cancer care by encouraging research, providing education, raising standards of practice, advocating for patients and members, and collaborating with other domestic and international organizations.

Society of OB/GYN Hospitalists (SOGH): The Society of OB/GYN Hospitalists is a rapidly growing group of physicians, midwives, nurses, physician assistants and other individuals in the health care field who support the OB/GYN Hospitalist model. SOGH is dedicated to improving outcomes for hospitalist women and supporting those who share this mission. SOGH's vision is to shape the future of OB/GYN by establishing the hospitalist model as the care standard.

Collectively, *amici* represent hundreds of thousands of American physicians and other health professionals, including thousands of physicians in Texas. *Amici* are well-versed in mifepristone's safety and efficacy due to experience accumulated as medical professionals. It is in *amici*'s interest to protect access to vetted, safe medications, both as a matter of policy and as a matter of practice. Ensuring access to evidence-based health care and promoting health care policy that improves patient health is central to each *amicus*'s mission. *Amici* believe that all patients are

entitled to treatment that is medically and scientifically sound, including access to drugs that have undergone the FDA's rigorous approval process. Additionally, *amici* have a strong interest in ensuring that legal decisions are based on sound, scientifically-backed evidence.

Amici therefore seek to file this brief to provide a medical perspective on the issues in this case, with a specific focus on the real-world practice of medicine. The proposed brief seeks to bring peer-reviewed studies demonstrating mifepristone's safety and efficacy to the Court's attention, as well as explain its use in a variety of medical contexts outside medication abortion.

Whether to grant a motion for leave to participate as *amicus curiae* is within the Court's discretion. *Richardson v. Flores*, 979 F.3d 1102, 1106 (5th Cir. 2020); *see also, e.g., United States v. Gonzales-Wagner*, 977 F.3d 323, 345 (5th Cir. 2020) (noting court's "broad discretion" to consider "amici's additional arguments"). In deciding whether to grant leave, courts generally consider whether "the proffered information of amicus is timely, useful, or otherwise necessary to the administration of justice." *United States ex rel. Long v. GSD & M Idea City LLC*, No. 11-cv-1154, 2014 WL 11321670, at *4 (N.D. Tex. Aug. 8, 2014) (quoting *Does 1-7 v. Round Rock Ind. Sch. Dist.*, 540 F. Supp. 2d 735, 739 n.2 (W.D. Tex. 2007)).

The Court should grant *Amici*'s motion for leave because the proposed brief is timely and useful. First, it is timely because it is filed in accordance with the deadlines stipulated by the parties in their proposed briefing schedule and approved by the Court. *Joint Motion to Extend Deadlines and Set Briefing Schedule*, 12 December 2022, at 3.

Second, the brief may be useful to the Court because it provides scientific and medical information not present in the parties' briefs. It also provides the perspective of the medical professionals who both prescribe and monitor the effects of mifepristone, drawn from real-world experience and peer-reviewed studies. This contextual information is highly relevant to the Court's

determination of whether the decision to approve of mifepristone was scientifically sound, as well as to the balance of the equities and the public interest in the requested injunction.

Accordingly, proposed *amici* respectfully request that the Court enter the attached proposed order and grant leave to file the attached proposed brief.

Dated: February 10, 2023

Respectfully submitted,

s/ Matt W. Sherwood

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Counsel for Amici

CERTIFICATE OF CONFERENCE

I certify that the parties stipulated that they will not oppose the filing of amicus briefs, and that any amici do not need to seek the specific consent of either Plaintiffs or Defendants before seeking leave of the Court. Therefore, this motion is not opposed.

/s/ Matt W. Sherwood
Matt W. Sherwood

CERTIFICATE OF SERVICE

I certify that on February 10, 2023, I electronically filed the foregoing document with the Court, using the CM/ECF system. The electronic case filing system will send a notice of electronic filing to the attorneys who have consented in writing to accept service by electronic means.

/s/ Matt W. Sherwood
Matt W. Sherwood